



Overtime Regulations Effective Dec. 1, 2016

The standards established to protect employees by the Fair Labor Standards Act (FLSA) depreciate over time due to inflation, which is why in 2014, President Obama signed a memorandum instructing the DOL to update the FLSA regulations and protections for minimum wage and overtime work. Following the notice, the department sought feedback to help define the Final Rule, and ultimately determined the key provisions and timeline to extend eligibility to over 4.2 million workers.

What are the key takeaways of the Final Rule?

- ▶ **Exemption**
At its core, the Final Rule redefines salary and compensation for exempt workers who work in Executive, Administrative or Professional roles by increasing the number of workers who are eligible for overtime when they work over 40 hours in a week.
- ▶ **Salary Threshold**
Taking effect on December 1, 2016, the new standard salary level threshold will be \$47,476 annually, or \$913 weekly. The threshold was last updated in 2004 when it was adjusted to \$23,660 annually or \$455 weekly.
- ▶ **Highly Compensated Employees (HCE)**
Workers who are considered highly compensated will be subject to the minimal duties test, and the annual compensation threshold for those workers \$134,004, up from \$100,000.
- ▶ **Automatic Adjustments**
Automatic updates to these thresholds will occur every three years, beginning on January 1, 2020, raising the threshold to the 40th percentile of full-time salaried workers in the lowest-wage Census region, estimated to be \$51,168 for standard level and \$147,524 for HCEs. The DOL will post all updated salary levels at least 150 days in advance, starting August 1, 2019.
- ▶ **Bonuses, Incentive Payments, Commissions**
An amendment to the salary basis test allows non-discretionary bonus and incentive pay/commissions to satisfy up to 10% of the new salary level. The minimal duties test has not changed.

How does this impact my workforce management? Employers should:

1. Determine whether you will increase workers' salaries or limit employees to no more than 40 hours per week if they fall below the new salary threshold and are non-exempt.
2. Implement time and attendance tracking systems for salaried employees who fall below the threshold to ensure their time worked is accurately tracked and paid. If salaried employees were not previously tracking their time worked, this new requirement could take time to adjust. We recommend adopting a simple time and attendance solution in advance of the December 1 deadline to ensure employees are accustomed to the new technology.
3. Contact us to learn how we can help maintain an integrated workforce management solution to stay compliant with FLSA.

